IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR
&
THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

WEDNESDAY, THE 10TH OCTOBER 2007 / 18TH ASWINA 1929

WP(C).No. 25806 of 2007(V)

PETITIONERS:
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1. **M.S.JOSE, AGED 62 YEARS,**
   MATTACKAL HOUSE, KADAPRA P.O., KUMBANADU,
   KOIPURAM VILLAGE, THIRUVALLA TALUK,
   PATHANAMTHITTA DISTRICT.

2. **SAM JOSE, AGED 33 YEARS,**
   S/O. M.S.JOSE, MATTACKAL HOUSE, KADAPRA P.O.,
   KUMBANADU, KOIPURAM VILLAGE, THIRUVALLA TALUK,
   PATHANAMTHITTA DISTRICT.

BY ADV. SRI.P.JACOB VARGHESE
SRI.VARUGHESE M EASO

RESPONDENTS:
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1. **THE SUB INSPECTOR OF POLICE,**
   KOIPURAM POLICE STATION, PATHANAMTHITTA DISTRICT.

2. **THE CIRCLE INSPECTOR OF POLICE,**
   KOZHENCHERRY, PATHANAMTHITTA DISTRICT.

3. **THE SUPERINTENDENT OF POLICE,**
   PATHANAMTHITTA DISTRICT.

4. **DAVID GEORGE, AGED ABOUT 48 YEARS,**
   S/O. GEORGE, KODIYATTU HOUSE, NEAR PRARTHANALAYAM,
   KIZHAKKAN MUTHOOR - KAVIYOOR ROAD,
   KUTTAPPUZHA VILLAGE, THIRUVALLA TALUK,
   PATHANAMTHITTA DISTRICT.

5. **NAZAR @ NAZEER MUHAMMED CHAVAKKADU,**
   AGED ABOUT 32 YEARS, WORKING AT FATHIMA GROUP OF
   COMPANIES, MEENA, ABHUDHABI, NOW RESIDING AT
   KODIYATTU HOUSE, NEAR PRARTHANALAYAM, KIZHAKKAN
   MUTHOOR - KAVIYOOR ROAD, KUTTAPPUZHA VILLAGE,
   THIRUVALLA TALUK, PATHANAMTHITTA DISTRICT.

BY GOVERNMENT PLEADER SRI.P.A.SALIM

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 10/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.NO.25806/2007 V

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: **COPY OF COMPLAINT DTD. 20/08/07 FILED BY THE 2ND PETITIONER TO THE 1ST RESPONDENT.**

EXT.P2: **COPY OF RECEIPT ISSUED FROM KOIPURAM POLICE STATION.**

EXT.P3: **COPY OF THE RECEIPTS FROM THE COURIER COMPANY.**

EXT.P4: **COPY OF DISCHARGE CARD ISSUED FROM THE AMRITA HOSPITAL CONTAINING THE DETAILS OF THE ILLNESS OF THE 1ST PETITIONER.**

EXT.P5: **COPY OF THE PARTNERSHIP DEED OF THE A1-BANOOSH MEAT COMPANY, AT ABU DHABI IN U.A.E.**

EXT.P6: **COPY OF THE FLIGHT RESERVATION E-TICKET NO.IX06026041 DTD. 16/08/2007 OF AIR INDIA EXPRESS.**

EXT.P7: **COPY OF THE COMPLAINT SUBMITTED BYTHE 2ND PETITIONER TO THE 1ST RESPONDENT DTD. 4/10/2007.**

EXT.P8: **COPY OF THE C.T.SCAN REPORT OF THE 1ST PETITIONER DTD. 17/09/2007.**

EXT.P9: **COPY OF THE DISCHARGE SUMMARY OF THE 1ST PETITIONER DTD. 27/08/2007.**

1ST RESPONDENT'S EXHIBITS:

EXT.R1(A): **COPY OF THE STATEMENT OF DAVID, THE 4TH RESPONDENT.**

EXT.R1(B): **COPY OF THE STATEMENT OF NAZAR, THE 5TH RESPONDENT.**

/TRUE COPY/

P.S.TO JUDGE

KSS

K.BALAKRISHNAN NAIR &

T.R.RAMACHANDRAN NAIR, JJ.

W.P.(C) NO.25806 OF 2007-V

Dated 10th October, 2007.

JUDGMENT

Balakrishnan Nair, J.

The petitioners are father and son. The son was doing some business in Abu Dhabi, U.A.E.. He is indebted to several persons. The respondents 4 and 5 are two of them. Alleging that respondents 4 and 5 have come to his house and threatened him on 3.8.2007, the 2nd petitioner has filed Ext.P1 representation before the S.I of Police, the 1st respondent herein on 20.8.2007. They submit, the 1st petitioner is suffering from various ailments, as evident from Ext.P4 medical report. So, this writ petition is filed, seeking protection to the lives of the petitioners, their family members and to their properties.

2. The 1st respondent has filed a statement, in which it is submitted that the 2nd petitioner is indebted to several persons and they are coming to his residence, on coming to know that he has returned from the Gulf, and are demanding their money back. The police questioned respondents 4 and

5 and recorded their statements, copies of which are produced as Exts.R1(a) and R1(b). The allegations of threatening the petitioners etc., are denied by them. The 5th respondent submitted that about Rs.20 lakhs is due from the 2nd petitioner to the firm in which he is working. The goods were released on credit to the petitioner on the recommendation of the 5th respondent. Under instructions from his employer, the said respondent approached the 2nd petitioner for repayment of the money, it is submitted. The 4th respondent has also got a case that substantial amount is due to him from the 2nd petitioner. The petitioners have filed a reply affidavit, dealing with the averments in the statement of the police.

3. The sum and substance of the claim of the petitioners is that the 2nd petitioner requires protection from his creditors, who are coming to their residence and demanding their money. We feel that for that the petitioners have to take recourse to the ordinary remedy available to them under law before the civil and criminal courts. The extraordinary jurisdiction of this Court under Article 226 of the Constitution of India cannot be invoked in favour of the petitioners, having regard to the facts disclosed in this writ petition. Accordingly, it is dismissed without prejudice to the contentions

of the petitioners and their right to move other forums for appropriate reliefs.

K.BALAKRISHNAN NAIR, JUDGE.

T.R.RAMACHANDRAN NAIR, JUDGE.

Nm/